Elise Compromi 1796

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| PETER IERARDI and | : | CIVIL ACTION NO. 90-7049 |
| ANGELA IERARDI, his wife | : | |
| Plaintiffs | : | |
| | : | |
| v. | : | |
| | : | Philadelphia, Pennsylvania |
| LORILLARD, INC., et al. | : | November 6, 1991 |
| Defendants | : | 9:38 o'clock a.m. |

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CIVIL JURY TRIAL
BEFORE THE HONORABLE CLARENCE C. NEWCOMER
UNITED STATES DISTRICT JUDGE

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APPEARANCES:

For the Plaintiffs:
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Compromi
Slade
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APPEARANCES: (Continued)

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(The following occurred in open court at 9:38 a.m.)

THE COURT: Counsel, I had gone over the objections that had been lodged in connection with these depositions. I have written my rulings on the tabs, if you wish to take them and copy them or whatever, it might be useful to you. I'm not sure who gave me these. I hope you can read that writing.

(Jury in, 9:39 o'clock a.m.)

THE COURT: Good morning, members of the jury. Ready to proceed, Counsel? I think we left off at Page 78, Line 24 on the deposition of Elise Comproni.

MR. JOHNSON: I believe that's correct, your Honor, Mr. Brake doing the questioning.

MR. BRAKE: And we will resume at Page 81, Line 6.

(The deposition of Elise Comproni was read into the record, questions by Mr. Brake, answers by Mr. Childs continued.)

Q By the way, at the Division of Occupational Hygiene in the 1950's, you used to use the term maximum allowable concentration?

A Yes.

Q Or MAC?

A Correct.

Q Okay. What did you understand that term to mean?

A It means that that was the limit that one could be



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exposed for a 40-hour week without adverse effects.

Q Over an entire working lifetime?

A Yes.

Q And indeed that standard presumably a safety factor built into it in the manner you described earlier?

A Yes.

MR. BRAKE: We now go to Volume 2, Page 56, Line 1.

Q I think you indicated yesterday that asbestos was a known carcinogen; do you remember saying that?

A It has been a suspect carcinogen ever since I've been employed with the division, was employed with the division.

MR. BRAKE: Beginning at 56, Line 1.

MR. CHILDS: Oh, I'm sorry.

MR. BRAKE: Let me reread the question, please.

Q I think you indicated yesterday that asbestos was a known carcinogen. Do you remember saying that?

A Well, it is a documented carcinogen according to ACGIH, yes.

Q And what's the date on that document?

A 1990 and 1991.

Q So as of today it's a known carcinogen, correct?

A Yes.

Q When did you first know that asbestos was a carcinogen?

A It has been a suspect carcinogen ever since I've been employed with the division, was employed with the division.



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Q Just so it's clear, when you joined the division in 1951, asbestos was a suspect carcinogen; correct?
A Yes.
Q How did you learn that?
A Through the literature, and I was also instructed in the fact that it was a suspect carcinogen from my superiors.
Q First let's take the superiors. Specifically who told you that it was a suspect carcinogen?
A Mr. Badley (ph) and Dr. Elkins (ph).
Q What literature do you remember reviewing with respect to asbestos being a suspect carcinogen?
A You are asking me a question that I can't answer now.
Q You don't remember?
A It's a long time ago.
Q As best you can recall, what did Mr. Badley or Mr. Elkins say about asbestos being a suspect carcinogen?
A Well, first off, it was -- it would cause asbestosis and it was a suspect carcinogen and that's why we had to do the evaluations.
Q Leaving aside the asbestosis for the moment, I'm asking you about the suspect carcinogen part. I'm asking you beyond simply saying that it was a suspect carcinogen, what else did Mr. Badley or Mr. Elkins say about that?
A I don't recall.
Q Have you at any time -- at that time read any studies in



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the medical literature relating to the possible carcinogenic nature of asbestos?

A I can't recall that.

Q Is it fair to say you don't know if any such studies exist prior to 1951?

A I can't recall whether I read any or not.

Q I think you indicated that the library at the Division of Occupational Hygiene was a pretty good library; correct?

A Yes.

Q Up-to- date in industrial hygiene matters?

A Uh-huh.

Q And indeed I think you indicated yesterday some tests, some three tests that you had made yourself familiar in '51 and '52, right?

A Yes.

Q Do you remember what periodicals the library at the division got in 1951?

A Yes. We subscribed to the Journal of the American Medical Association, the New England Journal of Medicine, The AIHA, American Industrial Hygiene Association Journal, the Occupational Medicine Journal. There were several others that I can't get -- the names fail my memory right now, but if I see them again, I could show it to you very readily.

Q Do you --

A Those are the basically the tests we used, plus the



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textbooks that we had in the library.

Q There was some specialized journals specifically directed to industrial hygiene as well, weren't there?

A Yes.

Q Do you remember if you got any of those?

A Yes, I just named a couple?

Q Which, I'm sorry, then maybe I didn't catch them.

A The Journal of the American Industrial Hygiene Association, Occupation and Medical Journal, the Lancet British Medical Journal we subscribed to, and there are two other occupational medical journals that we subscribed to, and I just can't remember the names of them right now.

Q Have you ever heard of a journal called Heating and Ventilating?

A Yes.

Q Did you get that?

A Well, I think we did for a time, I'm not sure that that was continued.

Q Did you get a British journal called the Journal of Industrial Hygiene?

A Not a British of industrial hygiene. We got Lancet which is the British medical journal.

Q Right. But something called the Journal of Industrial Hygiene, did you get that?

A British?



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Q I believe so.
A No, I don't think so.
Q Did you get an American publication of that name, the Journal of Industrial Hygiene?
A The Journal of American Industrial Hygiene Association.
Q And I am asking you about a publication called the Journal of Industrial Hygiene, did you get that, British or American?
A If we're talking about the same journal, you have the name wrong. If you've got the correct name, then I don't think we have it.
Q Just so we're clear, you didn't get a journal called the Journal of Industrial Hygiene, right?
A I don't -- I don't think so.
Q Did you regularly read these various journals in the library of the division?
A They were circulated to our desks. We had to sign off on them.
Q Did you read them?
A I read certain articles in them, yes.
Q Did you guys get the -- did the Division of Occupation Hygiene get the American Journal of Cancer?
A I don't think so, no.
Q Did you get the American Journal of Public Health?
A Yes.



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Q And you used to read that one?
A Certain articles we did, yes.
Q Did you get a journal called the Journal of Industrial Hygiene and Toxicology?
A Yes.
Q And did you used to read that?
A Occasionally, yes. I don't read all the journals in their entirety. I pick out the articles which are of interest to me.
Q Now, in the 1950's, did you ever become aware of any articles about epidemiological studies by a guy name Sir Richard Dahl (ph)?
A His name has been referenced in the literature many times, yes.
Q Well, what I'm asking you is during the 1950's did you read any epidemiological studies by him?
A I can't recall
Q What about two authors named Kenaway (ph), have you ever heard that name?
A I'm not familiar with them.
Q Do you recall when it was you would have read any of the epidemiological studies by Sir Richard Dahl?
A It could have been anywhere from 1951 to the present time.
Q Do you know if Sir Richard Dahl drew any conclusions in



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those studies about asbestos exposure in any relation to lung cancer?

A I don't recall.

Q You don't recall any specific literature you reviewed that caused you to know that asbestos was a suspected carcinogen in 1951 or '52?

A No, I don't. I don't remember any specific references.

MR. BRAKE: To 63, Line 12.

Q When did asbestos in your mind pass from being a suspected carcinogen to a known carcinogen?

A That is another question I can't answer.

Q Are you familiar with the level of suspicion that asbestos was a carcinogen that existed in 1952?

A There were discussions among people who were using it in the division, and there was a disagreement about that, but I can't refer to any specifics.

MR. BRAKE: Okay. On to the portion designated by the plaintiffs at Line 64 -- Page 64, Line 12.

MR. CHILDS: Right.

Q Mr. Comproni, you indicated yesterday that you had some discussions with persons at Specialties about asbestos; do you recall telling us that?

A Yes.

Q On which of your five visits to the Specialties plant did those conversations occur?



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A The very first visit with Mr. Badley and I, we discussed the reasons we were there and the hazard from asbestos.
Q And with whom did you discuss it?
A The plant manager, Mr. Harmon, I believe it was. I'd have to refer to the report to get the name of --
Q Right. So independent of the report, you don't recall who that discussion was with?
A My recollection says that it was Mr. Harmon.
Q Do you remember what Mr. Harmon looked like?
A In a vague sort of way.
Q And what was that?
A Just a medium sized person who looked just like any other ordinary person would look. How would I describe him?
Q Well, do you remember his hair color?
A No, I don't.
Q Do you remember if he was bald?
A No, I don't recall.
Q Do you remember how tall he was, approximately?
A Medium height.
Q Do you remember anything else about Mr. Harmon?
A No, not really.
MR. BRAKE: Page 66,. Line 23.
Q But you remember you met with Mr. Harmon in his office, as it were?
A We approached him in his office. Subsequently we left



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his office and went into the plant.

Q And what did you understand Mr. Harmon's position to be when you met with him that day?

A I assumed he was the manager. I believe he was the plant manager.

Q And how did you come to know that?

A Because we asked him, and it's in the report what his title was and the person's that we interview.

Q Okay. As best as you can recall, specifically referring to the discussion you had, you and Mr. Badley had with Mr. Harmon in the office, during that conversation what did he say, what did Mr. Badley say, and what did you say?

A I don't recall that.

Q Do you recall the gist of the conversation?

A Yeah. We informed him that we would like to evaluate his dust problem in his plant because of the people being exposed to asbestos dust which was harmful to the workers, and that we had to take some air tests.

Q Do you remember any one of the three of you saying anything else?

A Regarding what?

Q Was it a one-way conversation? You came in and told Mr. Harmon this and was something else said?

A No. We discussed the problem, the reason we were there and the intent that we were going to take air tests.



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Q What did Mr. Harmon say during that conversation?
A He was agreeable to our coming in and taking the tests because the inspector who had the authority to enter the plant and have the test taken, was talking to him also.
MR. BRAKE: Page 69, Line 6.
Q Okay. My question to you is what did Mr. Harmon say as best you can recall?
A I don't recall what Mr. Harmon had to say.
MR. BRAKE: Page 70, Line 18.
Q What if anything do you specifically recall telling Mr. Harmon about the hazard of asbestos?
A I don't recall just how the conversation went.
Q Just so I understand, you don't recall what it was you said to him?
A Not specifically, no.
Q Did you make any note in your report that you drafted in the October '52 meeting of having informed Mr. Harmon about the hazard of asbestos?
A No.
Q And why was that?
A Because that's not the purpose of my visit. The purpose of my visit was to take air samples not edu --
Q And --
A -- not educate Mr. Harmon.
Q And it was not the role of the Division of Occupational



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Hygiene to educate the plant managers about the hazards of asbestos; correct?

A It wasn't my role.

Q Whose role was it?

A I don't know if it was a role of the Division of Occupational Hygiene.

Q Did Mr. Badley tell Mr. Harmon anything about the hazard of asbestos during that conversation?

A I can't recall.

Q Do you recall specifically what you told Mr. Harmon about the hazard of asbestos during that conversation?

A No, I don't recall.

Q During any of your subsequent visits, did you have any meetings with Mr. Harmon?

A I believe he was interviewed in at least one other visit.

Q Okay. When was that, do you recall?

A I have to refer to my notes which are in the hands of your protege.

Q What I'm asking you is, what your recollection is irrespective of the notes?

A I don't recall. I don't recall.

Q Do you recall any person other than Mr. Harmon with whom you had conversations at Specialties about the hazard of asbestos?

A No, I don't recall.



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Q Indeed during any of your notes -- your reports, I'm sorry, that you made on your five to Specialties, did you once make a notation that you had informed anyone at Specialties about the hazard associated with asbestos exposure?

A No, I don't --

MR. JOHNSON: Objection. If you're going to ask him about his notes, then I think he should be allowed to look at his notes.

A No --

THE COURT: Just a minute. This is not one of those that was furnished to me as --

MR. BRAKE: That's correct, your Honor, and he's simply reading from the --

MR. JOHNSON: I'm reading from the text to put in context later what goes on when the notes --

THE COURT: Oh, so you don't want a --

MR. JOHNSON: -- are shown to him at a later point.

THE COURT: You don't want a ruling at this point?

MR. JOHNSON: No.

THE COURT: Very well.

A No, I don't recall.

Q Do you recall --

MR. BRAKE: I'm sorry, Page 73, Line 5.

Q Do you recall if you made that note at any point?



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A I don't.
Q If you had told them of the exposure, the hazard of exposure to asbestos, would you indeed have noted that fact?
A Not necessarily, no. That is not something I included in an engineering report.
Q Because it was not your role to inform plant managers about the hazards of asbestos; correct?
A Yes.

MR. BRAKE: Page 73, Line 20.

Q But let me ask you if at any point in your reports done after the five visits, did you make any reference to asbestosis or a possible relationship between asbestos exposure and cancer in any of your reports?
A No. I --
Q Do you know if you mentioned any hazard whatsoever or any problem whatsoever associated with asbestos exposure?
A To whom?
Q In your reports?
A Oh, no. The reports don't contain any of that information.

MR. BRAKE: Now to Page 90, Line 21.

Q I think you said yesterday that you were -- I think you used the word "appalled" by the fact that -- you were appalled I think you said by the fact that the filter material being manufactured at Specialties was to be



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incorporated into a cigarette filter?
A Yes.
Q Could you tell us why you were appalled by that?
A Well, asbestosis is the result of exposure to asbestos. The filtered cigarette or the cigarette filter contained asbestos and you are inhaling air that was drawn through an asbestos contained filter. And if any of this stuff got into your lungs it could cause lung damage. That's why we were -- I was appalled.
Q Now, of course, you didn't know whether any of the asbestos indeed would come from the filter into the lungs of the smoker; right?
A I wasn't concerned with whether I knew. My concern was the fact that I -- that it was a potential hazard at least that if any of it did in fact get out, you were going to inhale it.
Q So just --
A And that was an inappropriate use of asbestos in my opinion.
MR. BRAKE: Page 92, Line 9.
Q Now, my question is, you didn't know one way or the other whether asbestos would come out of this filter on this cigarette, right?
A I have --
Q You have no knowledge about that?



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A I had no test results, no.
Q You had no knowledge at all, right?
A No.
Q Now, you nonetheless felt based on your knowledge of the hazards of asbestos, that this was a health hazard to put an asbestos containing filter on a cigarette; right?
A That it was a potential health hazard at least.
Q And you thought that in 1952 when you went to the Specialties plant, right?
A Yes, I did.
Q And you felt that it was a potential health hazard to anyone who ended up smoking that cigarette, right?
A Yes.
MR. BRAKE: And down to Line 20 on Page 93.
Q And that could be millions of people, right?
A Yes.
Q And just so I understand, you didn't tell anybody about this concern, right?
A I didn't tell anybody?
Q Yes.
A No, I didn't tell anybody at Hollingsworth and Vose that that was my feeling, but I discussed it with my own colleagues and they were of the same opinion.
Q Do you discussed it with Mr. Badley, right?
A Yes, I did.



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Q And he was of the same opinion that you were?
A Yes, he was.
Q And you discussed it with Mr. Elkins, right?
A That's correct.
Q The noted industrial hygienist?
A Yes.
Q And the three of you thought that this was a potential health hazard to millions of people?
A Yes.
Q Okay. But the three of you never told anybody else of your concern, did you?
A I discussed it with many people?
Q With?
A Lay people.
Q With whom did you discuss it?
A All of my associates.
Q Did you ever make sure that your concern found its way to the public domain?
A No, I did not.
Q In fact, you did nothing toward that end, did you?
A I had no authority to do anything about that.
Q But you had the right to bring it to the attention of the public, did you not?
A I had the right to discuss it with anyone I felt like.
Q If you felt a potential health hazard existed to millions



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of people, you had every right to call the Boston Globe or any other newspaper in this city, right?

A I could.

Q But you didn't do it, right?

A No, I didn't.

Q Not only did you not tell the Globe, you didn't tell anyone else that would bring it to the public attention, did you?

A Not -- no one I discussed it with did bring it to the public attention.

Q Now, if you knew in 1952 for instance that somebody was putting mercury in cigarette filters, you would have felt that was a potential health hazard to millions of people, right?

A Certainly.

Q And you would have brought that to the attention of the Boston Globe or the New York Times?

A No, I probably wouldn't have.

Q Because it's just not your job, is it?

A That's correct.

Q And even though it's a potential health hazard to millions of people because it's not part of your job, you wouldn't do anything about it, right?

A I didn't say that.. I said I probably wouldn't have under these circumstances because I'm not in the position to render



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that kind of authority. If you want to create or carry out a crusade, then I might go to the Boston Globe on many items. Asbestos is only one of them.

Q But if you --

(Deposition interrupted.)

MR. CHILDS: Wait a minute.

MR. BRAKE: Beginning on Page 97, Line 5.

MR. CHILDS: Go ahead.

(Deposition continued.)

Q If you genuinely thought that the asbestos-containing cigarette filter, based on your knowledge in 1952 was a potential health hazard to millions of people, shouldn't you have done something about that?

A There are potential health hazards of all kinds and it's not my nature to start a crusade on any one specific issue. If I were to do that I might select something else that I feel is much more important. The dioxin issue is in fact one of the most -- foremost problems of the day and I don't see many people calling the Boston Globe about that.

Q But just so I understand, you and your colleagues with the Division of Occupational Hygiene knew something that very few people knew, correct?

A Not necessarily. We were only one division. There are 50 states and -- 48 at that time and they all knew about the same thing and they didn't call their newspapers.



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Q Nobody thought that it was important enough really to do anything about it, did they?

A I don't know.

Q They made a judgment, right?

A I don't know why they didn't. All I know is that they didn't and you're asking me why I didn't and it's probably for the same reason. We're not crusaders.

Q And you made a judgment that whatever the health hazard was it wasn't sufficient for you to bring it to the public's attention, correct?

A No. It was sufficient to bring it to everybody's attention but we didn't do it because we didn't want to start the crusade ourselves.

(Deposition interrupted.)

MR. BRAKE: Over to --

MR. JOHNSON: May I request in view of counsel's questioning that we read the next two sentences. Next three questions.

MR. BRAKE: Would you direct me to the --

MR. JOHNSON: 98, 17, where you just stopped.

MR. CHILDS: I think you designated that, Mr. Brake.

MR. BRAKE: Sure.

(Deposition continued.)

Q Now, to go back to 1952, what was the role of the



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Department of Labor and Industry?

A Protect workers in the workplace.

Q And indeed in your work as an industrial hygienist at the department, the Division of Occupational Hygiene, it was your role to protect the workers, to help protect the workers in Massachusetts, right?

A Yes.

Q And in connection with that you went down -- it was in connection with that that you went down to Specialties, right?

A Yes.

(Deposition interrupted.)

MR. JOHNSON: That's what I requested be read.

MR. BRAKE: Anything else?

MR. JOHNSON: Not at that point.

MR. BRAKE: I would now move to --

MR. CHILDS: 99, Line 23.

MR. BRAKE: As far as I'm concerned, we can now move to the portion read by Mr. Johnson -- oh, I'm sorry, your Honor -- it would begin on Page 119 at Line 20.

(Deposition continued.)

Q Let me show you Exhibit 7.

A Yeah, okay.

Q Have you had a chance to review Exhibit 7?

A Yes.



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Q And you've seen that document before, right?
A Yes.
Q It's a letter from Mr. Childs to you about your testimony in this case, correct?
A Right.
Q Now, directing -- well, did you receive this document shortly after the 4th of January, 1990? I assume that to be '91, correct?
A '91.
MR. BRAKE: Down to Line 19.
Q Okay. Do you remember receiving this letter?
A Yes.
Q Okay. Approximately when was that?
A I would say probably in January of '91.
Q I mean do you actually recall getting the letter?
A Yes.
Q And as best you recall it was in January of '91?
A Yes.
Q Let me direct your attention to the carryover paragraph at the bottom of the first page. Do you see there where Mr. Childs tells you what aspects he's particularly interested in?
A Mm-hmm.
Q Did Mr. Childs ever -- or for that matter, Mr. Johnson or Mr. Rosenberg ever amplify what they were interested in about



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what you told people from H and V about the hazards of asbestos?

A Say that again.

Q Do you see where Mr. Childs says, I'm particularly interested in the following: What you told people from H and V about the hazards of asbestos. Do you see that?

A Yes.

Q Do you recall any other discussion with Mr. Johnson and Mr. Childs or Mr. Rosenberg about what you told people from H and V about the hazards of asbestos?

A Not really. We didn't discuss this in any detail.

Q Now, Mr. Johnson and Mr. Childs never indicated to you that it would be helpful to their case if you told somebody from H and V about the hazards of asbestos?

A Well, I think it's clear from this letter that it would help their case.

Q Well, I guess my question is, did they ever tell you that?

A No, they told me in writing what you see here.

Q You recall no other discussion about this question of what you told people at H and V between you and Mr. Johnson, Childs or Rosenberg?

A Well, in a general way it was ever discussed that there was a health hazard from asbestos? Yes, we mentioned to H and V people why we were there and it was because asbestos



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was a hazardous material. But specifically to address their concerns, I don't think that was in my mind at the time we discussed those things.

Q Mr. Childs also indicates --

(Deposition interrupted.)

THE COURT: Pardon me. Pardon me. For the record, what's the number of the exhibit that's referred to there?

MR. BRAKE: I don't think it's listed by either party, your Honor, as a trial exhibit. It was used to cross-examine this particular witness at his deposition.

THE COURT: It has not been identified?

MR. BRAKE: I believe not, your Honor. I have a copy of it.

THE COURT: Well, the references to it here are meaningless unless we have the document to go with it.

MR. BRAKE: I think, your Honor, to the extent that there are references to it, there are portions referred to in the transcript, portions of the letter actually referred to in the text of the transcript. In particular, Mr. Childs requests that he wanted to discuss --

THE COURT: All right.

MR. BRAKE: -- what this particular witness told H and V.

THE COURT: It leaves me hanging in the air when I don't see the document that he's referring to.



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You may go ahead as you wish.

MR. BRAKE: I have the document if your Honor would wish to see it.

THE COURT: Well, I'm not thinking of myself. I want the jury to understand this testimony, that's all.

MR. BRAKE: Now, if we could, Mr. Childs, move to -- in the interest of time, move to Page 123, Line 1.

MR. CHILDS: That's where we were.

MR. BRAKE: Okay.

(Deposition continued.)

Q Mr. Childs also indicates he's particularly interested in what their response was. Their presumably being H and V. Do you see that again in the carryover paragraph?

A Well, I'd say maybe in a general way. We did broach the subject of why they changed their filter blend and also the fact that they were considering getting out of -- getting asbestos out of the filter. We discussed this with people at H and V when they told us they had changed their blend, the reasons for it. And one was that the resistance of the filter was too great and they had to modify it for that reason. And secondly, that the asbestos was removing a lot of the flavor and test from the cigarettes. So that it wasn't as acceptable a product as it was otherwise.

Q Who told you that?

A At H and V?



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Q Is that what you're telling me that somebody at H and V told you that?

A That's where we gleaned the information that they changed their blend. I recall they added acetate to the blend and I believe that was in an effort to change the filter resistance characteristics and also to allow more material to pass through the filter which would give the cigarette a better flavor.

Q More smoke?

A That's right.

Q Now, who was it from H and V Specialties or Hollingsworth and Vose, as the case may be -- who was it that told you that statement you just told us?

A I think, if I remember correctly, it could have been Mr. Harmon or it could have been the second superintendent that I mentioned in my report. It was one of the people that we interviewed and is named in the report.

Q And would that be Mr. O'Malley you're referring to?

A It could have been.

MR. BRAKE: Over to Page 125, Line 5.

Q So I guess my question was, then, was when we started this, who was it that told you that?

A It was the person we interviewed and the names are on the reports and I can't tell you which one specifically, whether it was either Harmon or one of the other.



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MR. BRAKE: Down to Line 24.

Q So you've looked at the documents and that's refreshed your recollection that the other name is Nichols?

A Right.

Q So either Mr. Nichols or Mr. Harmon was the person who told you that the reason changes were made in the blend, specifically acetate being added, was resistance and to allow greater amounts of smoke to come through the filter?

A I believe that was the case, yeah.

Q Do you remember any other statements ever being made to you about the blend of material?

A No.

Q I take it then that Mr. Johnson and Mr. Childs indicated to you that they were interested in any discussions you had with anyone at H and V about changes in the filter blend, is that right?

A Well, I don't think they specifically wanted names, they just wanted to know reasons.

Q But they did specifically ask you what you knew about any reasons for changes in the blend?

A Yes.

(Deposition interrupted.)

MR. BRAKE: At this point, your Honor, I think we can move to the portion designated by the plaintiffs and asked by Mr. Johnson which begins on 143.



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(Deposition continued; Mr. Johnson reading the questions and Mr. Childs reading the answers.)

Q Mr. Comproni, I have just a few questions and we'd like to let you be on your way. When my partner, Mr. Childs, wrote to you at 150 Tremont Street, what office is that?

A It's the Department of Public Health and I'm now in the Division of Environmental Health Assessment.

Q And is that where we met with you yesterday?

A Yes.

Q For about an hour before this deposition?

A Yes.

(Deposition interrupted.)

MR. BRAKE: I would object to the next question, your Honor.

MR. JOHNSON: I will --

MR. BRAKE: And I would ask that --

MR. JOHNSON: I'll withdraw those two --

THE COURT: Very well.

MR. CHILDS: 144, Line 3.

(Deposition continued.)

Q And you're still a Commonwealth employee?

A Yes.

Q And is anyone from Hollingsworth and Vose or Hollingsworth and Vose Specialties Companies ever contacted you about these matters?



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A No.
Q Have their attorneys ever contacted you?
A No.
Q Had anyone from the firm of Nutter, McClennen and Fish which is where we're sitting now here in Boston ever contacted you?
A No.
Q If any of those people, either from the company or their attorneys, had contacted you, would you have talked to them?
A I suppose I would, yes.
Q Would you have any reason why you wouldn't have told them the same things you told me and Mr. Childs?
A No. Our records are public records.
Q And with respect to your records, I would like -- I want to show you your report of April 17th, 1953 which we marked Exhibit 2. Who wrote this particular report?
A I did.
Q And does that report not state in Paragraph 3, "It was pointed out to Mr. Nichols that ordinarily the recirculation of air containing toxic dust is not permitted because of the possible breakdown in the system, such as a tearing of a collector bag which would permit the dust to be redispersed into the plant." Is that what you wrote in your report?
A Yes.
Q Who is Mr. Nichols?



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A He was the general manager of H and V.
Q And when that was pointed out to Mr. Nichols, what toxic dust did you have in mind?
A Asbestos.
Q And did Mr. Nichols -- did you have any other toxic dust in mind other than asbestos?
A No.
Q Did Mr. Nichols ever question you as to what you meant by toxic dust?
A I'm not sure that he questioned me, but we were certainly in agreement that we were talking about asbestos.
Q And did Mr. Nichols ever ask you to explain what you meant by the term "toxic"?
A No.
Q And were you under the impression from your conversations with Mr. Nichols that he knew?
A Yes, I was.
Q Why was that?
A Because --

(Deposition interrupted.)

MR. BRAKE: Objection, your Honor. First, it's not designated and second, I object to the relevance.

MR. CHILDS: Go down to Line 21.

THE COURT: Just a minute. Because why?

MR. BRAKE: First of all, as I understand it, it's



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not designated. Second, I would object to the relevance and to its consistency with your prior orders.

MR. CHILDS: To Line 21.

MR. JOHNSON: Okay.

THE COURT: You're withdrawing it?

MR. CHILDS: Yes. It was not designated.

THE COURT: All right.

MR. JOHNSON: All right.

(Deposition continued.)

Q And with respect to Exhibit 4, which is your report dated January 28th, 1954 of your visit January 27th, 1954, who wrote that report?

A I did.

Q And who did you interview on that visit to H and V Specialties?

A Mr. O'Malley.

Q And what title did he give you?

A He was the superintendent.

Q Now, in the last paragraph of your report, does it say, "It was pointed out to Mr. O'Malley that it is not our policy to allow the recirculation of air containing a toxic dust such as asbestos." Does it say that?

A Yes.

Q Who pointed that out to Mr. O'Malley?

A I did.



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Q And whose policy does "our policy" refer to?
A The Department of Labor and Industries, Division of Occupational Hygiene.
Q And when you were having that discussion with Mr. O'Malley, were you referencing any dust, any toxic dust other than asbestos?
A No.
Q And in the course of that conversation with Mr. O'Malley in 1954, did Mr. O'Malley ever ask you to explain what you mean by toxic?
A No.
Q What questions, if any, did Mr. O'Malley ask you about the term "toxic"?
A None.

(Deposition interrupted.)

MR. BRAKE: I believe there's only one other portion beginning on Page 52 asked by me.

MR. CHILDS: That's right.

MR. BRAKE: 152, I'm sorry.

(Deposition continued; Mr. Brake reading the questions and Mr. Childs reading the answers.)

Q Do you specifically have a recollection of visiting the H and V Specialties plant in January of 1954?
A January of '54? That was my second visit, right? Yes.
Q Do you have a recollection of going there?



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A Yes.
Q And who did you meet with that day?
A I'd have to check the record.
Q You don't know, right, without looking at the documents, you don't remember?
A Right.
Q What do you remember of Mr. O'Malley?
A Nothing much.
Q Do you remember anything distinctive about his speech?
A No.
Q Do you remember he was from Ireland?
A No.
Q You don't remember he spoke with a brogue?
A No.
Q Do you remember Mr. O'Malley at all?
A Very vaguely.
Q You remember what he told you about the hazards of asbestos, but you don't remember anything else about him?

(Deposition interrupted.)

MR. JOHNSON: Excuse me.

MR. CHILDS: He told me about the hazards of asbestos.

MR. BRAKE: Down to Line 9.

(Deposition continued.)

Q So when you just testified about Mr. O'Malley, you were



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reading from your report, correct?

A Yes.

Q And you have no independent recollection whatsoever of any discussions with Mr. O'Malley that are not contained in these reports, correct?

A No.

Q Is that correct?

A I would say so, yes.

(Deposition concluded.)

MR. BRAKE: That's all we have, your Honor.

MR. JOHNSON: Your Honor, in view of the designations made by opposing counsel, I would offer the reports made by Mr. Comproni which were exhibits to this deposition as exhibits in this case.

THE COURT: Any objection?

MR. BRAKE: We do, your Honor. That would amount to tantamount abrogation of your prior orders in the case. The questions -- your prior orders on motions in limine. The questions directed in here didn't go in essence to the substance of the reports, solely to the fact that Mr. Comproni of his own recollection didn't remember anything other than the report. Mr. Comproni purported to have additional recollection.

THE COURT: Well, the question I --

MR. BRAKE: The substance of the reports is



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irrelevant.

THE COURT: The question I guess is whether or not the report was sufficiently identified.

MR. BRAKE: Well, I think it -- well --

THE COURT: Is that what you're saying?

MR. JOHNSON: I don't -- no, I don't --

MR. BRAKE: No, I don't think so, your Honor. I think there is a whole series of objections, at least authenticity and hearsay. I mean the reports from Mr. Comproni in '52 have to do with the plant visits and your Honor, of course, has addressed that elsewhere.

The point really is is that what Mr. Johnson would like to do is abrogate the prior order. None of the questions today about the report --

THE COURT: I don't understand what you mean, the prior order.

MR. BRAKE: Your Honor addressed the question in a motion in limine about certain evidence that the plaintiff wished to introduce as regards to H and V Specialties.

THE COURT: Why don't we save this till a recess --

MR. BRAKE: Yeah. Thank you.

THE COURT: -- and I'll defer judgment on this until that time.

(Pause in proceedings.)

MR. JOHNSON: May I call my next witness, your



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CERTIFICATION

I hereby certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

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